

## ***Town of Brooklyn, Green County Land Division Ordinance - # 06-19-98***

Note: This ordinance is a composite of the Original ordinance #6-7-93, amended ordinance # 2-20-95 and amendments adopted on June 19, 1998.

### **1. AUTHORITY**

These regulations are adopted under the authority granted by Section 236.45 of the Wisconsin Statutes.

### **2. PURPOSE**

The purpose of this ordinance is to promote the public health, safety and general welfare of the community. The regulations are designed to further the orderly layout and use of land to avoid undue concentration of population; to facilitate adequate provision for water, sewerage, schools, parks, playgrounds, and other public requirements to minimize the public impact from subdivision of large tracts into smaller parcels of land; to encourage the most appropriate use of land throughout the Town; to provide the best possible environment for human habitation; to facilitate the goals given in the Town of Brooklyn Land Use Plan.

### **3. JURISDICTION**

Jurisdiction of these regulations shall include all lands within the Town of Brooklyn. The provisions of this ordinance, as it relates to divisions of tracts of land into less than five (5) parcels shall not apply to:

- a. transfers of interest in land by will or pursuant to court order;
- b. leases for a term not to exceed ten (10) years, mortgages or easements;
- c. the sale or exchange of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance; and
- d. the redrawing of lot lines by the owner of a parcel so as to create the same number or fewer lots within that parcel, so long as each of the resulting lots are of equal or greater size than the minimum sizes required by this ordinance

#### 4. COMPLIANCE

No person, firm, corporation, partnership or legal entity of any sort shall divide any land located within the Town which results in a land division as defined here without compliance with all requirements of this ordinance and with:

- a. Chapter 236 of the Wisconsin Statutes
- b. Green County Zoning Regulations, Sanitary Code, and Subdivision regulations
- c. State of Wisconsin rules on sewers and septic systems
- d. State of Wisconsin rules on pollution abatement
- e. State of Wisconsin Department of Transportation rules relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting street; and
- f. All applicable master plans, zoning ordinances, official maps adopted under Section 62.33 Stats and any other ordinances and regulations.

Where provisions of this ordinance impose greater restrictions than a - f above, it is intended that the provisions of this ordinance shall apply.

#### 5. DEFINITIONS

- a. Certified survey map - A map of land prepared in accordance with Sec 236.34 of the Wisconsin Statutes and in full compliance with applicable provisions of this ordinance. A certified survey has the same legal force and effect as a subdivision plat.
- b. Commission - The Town of Brooklyn Planning Commission
- c. Board - The Brooklyn Town Board
- d. Land Division - The division of a parcel of land by the owner thereof or the owner's agent where the act of division creates two or more lots.
- e. Lot - Land five (5) acres or larger created by land division

- f. Land divider - Any person, corporation, or other entity requesting review or action on a land division.
- g. Parcel - Contiguous land under the control of a land divider regardless of whether it is separated by streets, highways, railroad right-of-ways, utility easements, or other easements.
- h. Land Use Plan - The Town of Brooklyn Land Use Plan
- i. Town clerk - Clerk of the Town of Brooklyn
- j. Adjoining property - Parcels of land under the control of separate owners that share common border lines or points regardless of whether they are separated by streets, highways, or railroad right-of-ways.
- k. Setback lot - A lot not contiguous to a road except for that portion that serves as the access driveway and not less than 450' at its closest point from any Town road, County Road or State Highway. The area of the driveway serving the setback lot shall be excluded for the purpose of calculating the minimum five (5) acre lot size.
- l. Standard lot - A lot that is contiguous to a road and does not meet the definition of a Setback lot.

## **6. LAND DIVISIONS WITH OR WITHOUT A CERTIFIED SURVEY**

- a. A certified survey map (CSM) prepared by a land surveyor registered in this state shall be required for all land divisions that create any parcel less than thirty-five (35) acres. A CSM is not required if the division of land does not create any parcels less than 35 acres. The map shall comply in all respects with the requirements of Sec. 236.34 of the Wisconsin Statutes
- b. Parcel Size and frontage
  - (1) One division of land shall be allowed for every thirty-five (35) contiguous acres under the control of a land divider as of the original effective date of this ordinance (June 11, 1993). The resultant division may create no lots less than five (5) acres except in the case of setback lots when the minimum size will be five (5) acres excluding the area for the access driveway. This limitation runs with the land in perpetuity and is irrespective of future ownership. The clerk shall maintain a database tracking the number of allowable divisions per parcel. If the land divider has any remaining divisions he or she may choose to transfer one or more

of these remaining divisions to the newly created lot(s).

Any lots created exceeding thirty-five (35) acres may not be further divided if all allowable divisions have been exhausted or transferred. The land divider will be required to include language on conveyancing instruments noting the number of allowable future divisions, if any, that are allowed.

- (2) Standard lots created by divisions shall have a minimum of two hundred (200) feet of frontage on an existing town road, county highway or state highway; Setback lots shall have a minimum of fifty (50) feet of frontage on an existing town road, county highway or state highway.

c. Information required

The map shall show correctly on its face, in addition to the information required by Sec. 236.34 Wisconsin Stats., the following:

- (1) All existing buildings, water courses, drainage ditches, and other features pertinent to property division, including the location of water wells, dry wells, drain fields and pipes;
- (2) Setbacks or building lines required by the Town Planning Commission;
- (3) Date of the map;
- (4) Graphic scale;
- (5) Name and address of the owner, land divider and surveyor.

d. Certificates

- (1) Surveyor - The surveyor shall certify on the face of the map that he has fully complied with all provisions of this ordinance;
- (2) Town - The following certificate of approval shall be typed, lettered or otherwise reproduced legibly on the face of the map:

***APPROVED BY THE TOWN OF BROOKLYN***

\_\_\_\_\_  
Chairman

date: \_\_\_\_\_

\_\_\_\_\_  
Clerk

date: \_\_\_\_\_

**e. Recording**

The land divider shall record the certified survey map with the Green County Register of Deeds after it has been approved, and shall file a certified copy of the recorded map with the Clerk within ten (10) days after the map is recorded.

**7. PROCEDURE FOR APPROVAL OF LAND DIVISIONS**

Any land divider who shall divide land located in the Town of Brooklyn which creates a land division as defined in this ordinance shall comply with the following procedure:

- a. The land divider shall prepare a Preliminary Parcel Division Inquiry. It shall be submitted to the Town of Brooklyn Planning Commission for review. The inquiry shall include a legible map showing boundaries and acreage of the original parcel and the lots to be created thereon, location of proposed improvements and location of natural waterways and other natural topographical features. Preliminary Parcel Inquiry forms and instructions may be obtained from the Clerk.
- b. The Planning Commission shall review the proposed division for compliance with the provisions of this ordinance. The Planning Commission shall review the records of the Clerk to determine if the parcel in question has been subject to previous division or is subject to deed restrictions.
- c. Upon approval of the Preliminary Parcel Division Inquiry by the Planning Commission, the land divider shall submit to the Planning Commission a certified survey map (CSM) prepared by a registered surveyor if a CSM is required by paragraph 6 of this ordinance. The survey shall include an accurate legal description of the parcel from which the new lots are to be created, the acreage of each proposed lot, locations of all proposed driveways, locations of public road frontage, locations of natural waterways or other natural topographical features, locations of proposed public and/or private easements, and descriptions of intended uses. If a CSM is not required for the proposed division, the Planning Commission shall forward its recommendation for approval, conditional approval, or rejection of the proposed division to the Town Board.
- d. If the Preliminary Parcel Division Inquiry is rejected by the Planning Commission, the land divider may appeal that decision to the Town Board or resubmit an amended Inquiry to the Planning Commission.

- e. If a CSM is required, the Planning Commission shall review the CSM for compliance with the provisions of this ordinance and forward its recommendation for approval, conditional approval or rejection to the Town Board.
- f. Upon receiving the recommendation of the Planning Commission, the Town Board shall approve, approve conditionally or reject the land division based on the determination as to its conformance with the provision of this ordinance and other applicable Town ordinances. As a condition of approval the Town Board may require the land divider to include deed restriction language on any instrument of conveyance.
- g. No construction shall commence on a lot created by a land division which does not comply with the provisions of this ordinance.

## **8. LAND SUITABILITY**

No land shall be divided which is held unsuitable for the propose use by the Planning Commission for reasons of flooding, inadequate draining, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate septic or sewerage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the community. The Planning Commission in applying the provisions of this ordinance shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the land divider an opportunity to present evidence regarding suitability at a public hearing before the Town Board. Thereafter, the Town Board may affirm, modify, or withdraw the determination of unsuitability.

## **9. PENALTIES**

Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction, be subject to penalties and forfeitures as provided in Sections 236.30, 236.31, 236.32, 236.335 and 236.35 Wisconsin Stats.

#### 10. SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the applicability thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

#### 11. EFFECTIVE DATE

This ordinance shall take effect one day after its publication or posting as required by law.

This ordinance was adopted by the Town of Brooklyn Board of Supervisors at a meeting on the 19<sup>th</sup> day of JUNE 1998 by a vote of 3 aye and 0 no, recorded as

follows: Chairman AYE; 1<sup>st</sup> Supervisor AYE; 2<sup>nd</sup> Supervisor AYE

[Signature]  
Chairman

JIM SCRIVNER

[Signature]  
1<sup>st</sup> Supervisor

HERBERT HANSON

[Signature]  
2<sup>nd</sup> Supervisor

ROBERT MCNEELY